

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

BRANDVERITY, INC.,

Plaintiff,

v.

JOHN DOES 1-100,

Defendants.

CASE NO. C16-1616JLR

ORDER

Before the court is Plaintiff Brandverity, Inc.'s ex parte motion for an order regarding discovery from non-party Comcast Cable Communications, LLC. (Mot. (Dkt. # 7).) Pursuant to 47 U.S.C. § 551, Brandverity seeks an order authorizing Comcast to produce the name, address, telephone number, email address, IP address, credit card number, and any other identifying information that Comcast possesses for a particular subscriber or subscribers. (*See id.*; Prop. Order (Dkt. # 7-3).)

With certain exceptions, Section 551(c) prohibits cable operators from disclosing "personally identifiable information." 47 U.S.C. § 551(c). One such exception arises

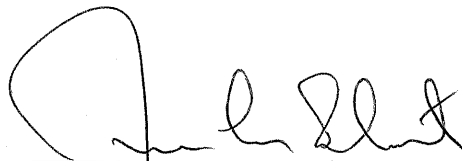
1 when the cable operator discloses personally identifiable information “pursuant to a court  
 2 order.” *Id.* § 551(c)(2)(B). Before issuing such an order, the court must find by “clear  
 3 and convincing evidence that the subject of the information is reasonably suspected of  
 4 engaging in criminal activity and that the information sought would be material evidence  
 5 in the case.” *Id.* § 551(h)(1).<sup>1</sup>

6 Brandverity has provided a declaration that demonstrates by clear and convincing  
 7 evidence that the subject of the information is reasonably suspected of engaging in an  
 8 online phishing scheme. (*See* Naffziger Decl. (Dkt. # 5)); 47 U.S.C. § 551(h)(1).

9 However, Brandverity has not shown that all of the information it seeks—especially the  
 10 subscribers’ telephone numbers, email addresses, and credit card numbers—would be  
 11 material evidence in this case. *See* 47 U.S.C. § 551(h)(2). Accordingly, the court  
 12 ORDERS Brandverity to SHOW CAUSE no later than January 6, 2017, why the  
 13 information that it seeks from Comcast would be material evidence. The court DIRECTS  
 14 the Clerk to renote Brandverity’s ex parte motion (Dkt. # 7) for January 6, 2017.

15 The court also DIRECTS Brandverity to provide Comcast with a copy of this  
 16 order no later than December 23, 2016.

17 Dated this 21<sup>st</sup> day of December, 2016.

18   
 19 JAMES L. ROBART  
 United States District Judge

20  
 21 <sup>1</sup> The court must also afford “the subject of the information . . . the opportunity to appear  
 22 and contest” the claim. *Id.* § 551(h)(2). If Brandverity demonstrates materiality in response to  
 this order, the court will ensure that before Comcast discloses any information, its subscriber or  
 subscribers have the opportunity to contest the claim.